

April 10, 2006

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION--DIVISION OF WATER QUALITY
APRIL 18, 2006**

ITEM 6

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION (BASIN PLAN) INCORPORATING NON-REGULATORY REVISIONS

DISCUSSION

The San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted the latest version of the Basin Plan in 1995 under Resolution No. 95-76. The Basin Plan sets standards to protect all waters in the San Francisco Bay Region and prescribes programs to implement these standards. The standards consist of the designated beneficial uses of the waters, narrative and numeric objectives to protect these uses, and the State's Antidegradation Policy.

Every three years the San Francisco Bay Water Board solicits public comments on desired changes to the Basin Plan, which are then reviewed and prioritized. The 2004 triennial review of the Basin Plan established that an editorial update of the Basin Plan is a high priority for the public. Over time, the program descriptions and other portions of the Basin Plan have become outdated. Drafting and transcription errors have been identified, and organizational changes to the Basin Plan are also needed.

On November 16, 2005, the San Francisco Bay Water Board adopted editorial revisions to the Basin Plan under Resolution No. R2-2005-0062 ([Attachment 1](#)). The proposed amendment incorporates the following revisions to the Basin Plan: (1) organizational changes including a numbering scheme for Basin Plan Sections to facilitate citation, a list of acronyms, and formation of a new Chapter 7 that describes the Total Maximum Daily Loads (TMDLs) and other Water Quality Attainment Strategies; (2) updates and corrections of maps and tables; and (3) program description updates for groundwater protection and management, wastewater pollution prevention, watershed management, wetlands, onsite (septic) systems, water recycling, and selected municipal wastewater facilities.

The amendment imposes no new regulatory requirements. The changes are intended solely to improve the clarity and convenience of the Basin Plan for public use. Resolution No. R2-2005-0062 authorizes the Executive Officer of the San Francisco Bay Water Board to make minor, non-substantive corrections to the language of the amendment if State Water Board staff finds that they are needed for clarity or consistency. State Water Board staff found that such changes were necessary. The San Francisco Bay Water Board Executive Officer has made non-substantive clarifications as requested and as specified in the attached memorandum ([Attachment 2](#)).

In addition, State Water Board staff recommends disapproval of the following sentence in the proposed language for Section 4.25.2.3 in Chapter 4 of the Basin Plan (Soil Cleanup Levels): *"Cleanup levels must be protective of human health for existing and likely future land use based on properly adopted land use designations in general plans, zoning, and other mechanisms."* This language is regulatory.

POLICY ISSUE

Should the State Water Resources Control Board (State Water Board) approve the amendment to the Basin Plan in accordance with the staff recommendations below?

FISCAL IMPACT

San Francisco Bay Water Board and State Water Board staff work associated with or resulting from this action can be accomplished within budgeted resources.

REGIONAL WATER BOARD IMPACT

Yes, San Francisco Bay Water Board.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution No. R2-2005-0062, as corrected by the San Francisco Bay Water Board Executive Officer and with disapproval of the following proposed language: "Cleanup levels must be protective of human health for existing and likely future land use based on properly adopted land use designations in general plans, zoning, and other mechanisms."
2. Authorizes the Executive Director to submit the amendment adopted under San Francisco Bay Water Board Resolution No. R2-2005-0062, as approved by the State Water Board, to the Office of Administrative Law for concurrence on its non-regulatory status and to the U.S. Environmental Protection Agency for informational purposes.

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2006-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION (BASIN PLAN) INCORPORATING NON- REGULATORY REVISIONS

WHEREAS:

1. The San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted a revised Water Quality Control Plan for the Basin Plan on June 21, 1995, which was approved by the State Water Resources Control Board (State Water Board) on July 20, 1995 and by the Office of Administrative Law (OAL) on November 13, 1995.
2. On November 16, 2005, the San Francisco Bay Water Board adopted Resolution No. R2-2005-0062 (Attachment 1) incorporating editorial revisions to the Basin Plan. The amendment imposes no new regulatory requirements. The changes are intended solely to improve the clarity and convenience of the Basin Plan for public use.
3. Resolution No. R2-2005-0062 delegated to the San Francisco Bay Water Board Executive Officer the authority to make minor, non-substantive corrections to the adopted amendment, if State Water Board staff finds that they are needed for clarity or consistency. State Water Board staff found that such changes were necessary. The San Francisco Bay Water Board Executive Officer has made non-substantive clarifications to the amendment as requested and as specified in the attached memorandum (Attachment 2).
4. San Francisco Bay Water Board staff prepared documents and followed procedures satisfying State laws and regulations.
5. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans.
6. A non-regulatory Basin Plan amendment does not become effective until approved by the State Water Board and until OAL has concurred on its non-regulatory status.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution No. R2-2005-0062, as corrected by the San Francisco Bay Board Executive Officer and with disapproval of the following proposed language: "Cleanup levels must be protective of human health for existing and likely future land use based on properly adopted land use designations in general plans, zoning, and other mechanisms."
2. Authorizes the Executive Director to submit the amendment adopted under San Francisco Bay Water Board Resolution No. R2-2005-0062, as approved by the State Water Board, to OAL for concurrence on its non-regulatory status and to the U.S. Environmental Protection Agency for informational purposes.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 18, 2006.

Song Her
Clerk to the Board